

White & Case LLC
1155 Avenue of the Americas
New York, New York 10036-2787

Tel + 1 212 819 8200
Fax + 1 212 354 8113
www.whitecase.com

Direct Dial + (212) 819-8586

dbaumstein@whitecase.com

April 7, 2015

Via ECF

The Honorable Cathy L. Waldor, U.S.M.J.
United States District Court
District of New Jersey
Martin Luther King Jr., Federal Building and Courthouse
50 Walnut Street, Room 4040
Newark, NJ 07102

Minmetals, Inc. v. Dragon Boom, Ltd., et al., Docket No. 2:13-cv-3834 (KSH) (CLW)

Dear Judge Waldor:

We write on behalf of Plaintiff Minmetals, Inc. ("Minmetals") in the above-captioned action. In anticipation of our status call scheduled for April 8, 2015, the following motions and other matters are outstanding.

1. Dragon Boom's Motion to Compel Bill Rigney to Comply with its Subpoena [Dkt. No. 106, Dec. 17, 2014]
2. The Parties' Competing Proposed Scheduling Orders. [Dkt. No. 108, December 18, 2014, Dkt. No. 109, December 24, 2014].
3. Minmetals' Motion to Seal Materials [Dkt. No. 123, March 11, 2015]
4. Minmetals' Application for the Issuance of a Letter Request Seeking Evidence From A Bank In the People's Republic of China Pursuant to the Hague Evidence Convention [Dkt. No. 122, March 11, 2015].

With respect to item 1, Minmetals and Dragon Boom, Ltd. ("Dragon Boom") have met and conferred pursuant to the parties' last status conference on March 4, 2015 and this Court's subsequent order [Dkt. No. 121, March 4, 2015]. In resolution of the motion, the parties agree as follows:

April 7, 2015

- a. Minmetals agrees to produce Bill Rigney's final, executed affidavit, and any other affidavit or declaration in the possession of Minmetals that was executed by him, as of the date the parties consent to this agreement.
- b. Minmetals and Dragon Boom agree that Bill Rigney's documents, previously designated as "Attorneys' Eyes Only," shall be treated by Defendants as "Confidential" under the Discovery Confidentiality Order [Dkt. No. 83, Aug. 4, 2014].
- c. Minmetals and Dragon Boom agree that Minmetals' production of documents (Minmetals 000001 to Minmetals 008957) it received from Bill Rigney shall, except as set forth in point 4 below, satisfy Minmetals' and Rigney's production obligations with respect to Dragon Boom's document requests for Stage 1 discovery, and that any other issues, including Dragon Boom's request for Minmetals' Settlement, Cooperation and/or Confidentiality Agreements with Bill Rigney, shall be deferred until Stage 2 discovery, without prejudice to the parties' positions.
- d. Minmetals and Dragon Boom agree that Dragon Boom is entitled to rare earth contracts and related documents occurring after the date of Bill Rigney's discharge, but within the relevant time period for Stage 1 discovery, and the parties respectfully request that the Court order Bill Rigney to produce the requested discovery.

With respect to item 2, Defendants continue to unreasonably delay discovery. The B&H Defendants did not supplemental their initial document production until yesterday, April 6, 2015—producing 293 documents (729 pages) over a month after the parties' last status conference and only two days before the parties' next status conference. Defendants' production delays have unreasonably delayed the progress of the litigation. Moreover, the B&H Defendants have further objected to Minmetals' notices of deposition as premature, and proposed beginning depositions as late as mid-June, despite Minmetals' having completed its document production on March 12, 2015, and the B&H Defendants anticipating completing their document production as early as next week. Depositions should commence sooner than June.

With respect to items 3 and 4, the motions have been fully briefed and we await the Court's decision.

Respectfully submitted,

Handwritten signature of Douglas P. Baumstein in blue ink, with the initials "DKAB" at the end.

Douglas P. Baumstein, Esq.

cc: John J. Janiec, Esq.

April 7, 2015

Kevin G. Walsh, Esq.
James M. Schmitz, Esq.
Thomas J. Welling, Esq.
Leodis C. Matthews, Esq.
Eugene Meyers, Esq.
Gregory K. Mueller, Esq.
Matthew J. Ross, Esq.